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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

DATE: JAN 3 1 2012 OFFICE: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a physician/researcher specializing in hematology and oncology. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, counsel indicated that a brief would follow within 30 days. To date, a year after the filing of the appeal, the record contains nothing identifiable as a subsequent submission. Therefore, the Form I-290B itself constitutes the entire appeal.

The Form I-290B includes a space for the petitioner to "[p]rovide a statement explaining any erroneous conclusion of law or fact in the decision being appealed." Counsel did not identify any erroneous conclusion of law or fact in the director's decision. Instead, counsel repeated several claims that first appeared in correspondence prior to the denial. The director had already addressed these claims, and repeating or modifying them on appeal is not sufficient grounds for appeal.

For example, counsel had previously stated that the petitioner's "combination of occupations" as a physician and researcher "means that labor certification . . . would be prohibited." The director, in the denial notice, stated that the petitioner's claimed "combination of occupations" is not grounds for the waiver. On appeal, counsel repeats the assertion that the petitioner works in a "combination of occupations." Instead of claiming that "labor certification . . . would be prohibited," counsel contends that the petitioner's employer, [redacted] Medical Center, would be "reluctant" to pursue labor certification because it "would likely trigger a lengthy audit and lengthy adjudication period." These purported misgivings are not grounds for appeal, because the labor certification process is a requirement, not simply an option for employers to exercise at their discretion. The claim that the petitioner's employer is concerned about a "lengthy adjudication" does not show that the director based the denial on any erroneous conclusion of law or fact.

Counsel states: "the alien has a demonstrated record of achievement as both a clinician and researcher that is unique and has had a national impact." Counsel then briefly describes various exhibits submitted previously. This one-sentence claim is a conclusion without premises, and once again does not demonstrate an error of fact or law in the director's decision.

Counsel did not address or rebut any of the specific findings in the director's decision. Counsel's vague and general assertion that the petitioner is eligible for the benefit sought is not a sufficient basis for an appeal. Counsel, in effect, simply claims that the petitioner is eligible for the benefit sought, and therefore the director ought to have approved the petition.

Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.